

ADMINISTRATIVE PANEL DECISION

Sodexo v. Name Redacted¹

Case No. DCO2022-0087

1. The Parties

The Complainant is Sodexo, France, represented by Areopage, France.

The Respondent is Name Redacted.

2. The Domain Name and Registrar

The disputed domain name <sodaxo.co> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 11, 2022. On October 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 13, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (c/o whoisproxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 23, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

On October 24, 2022, the Complainant requested suspension of the proceedings and the proceedings were subsequently suspended until November 24, 2022. On October 27, 2022, the Complainant requested the reinstatement of the proceedings and the proceedings were reinstated.

The Complainant filed an amended Complaint on October 31, 2022.

¹ The Respondent appears to have used the name of a third party (an employee for Complainant) when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 22, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on December 1, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant in this proceeding is SODEXO, a French limited company.

Founded in 1966, the French company SODEXO (formerly known as SODEXHO ALLIANCE) is one of the largest companies in the world specializing in food services and facilities management, with 412,000 employees serving 100 million consumers daily in 56 countries. SODEXO is one of the world’s largest employers. From 1966 to 2008, SODEXO promoted its business under the SODEXHO trademark and trade name. In 2008, SODEXHO simplified the spelling of its trademark and trade name to SODEXO.

The Complainant owns the SODEXO and SODEXHO trademarks, which enjoy protection through many registrations worldwide.

The Complainant is, *inter alia*, the owner of:

International trademark registration number 964615 for the SODEXO (device) trademark, registered on January 8, 2008.

European trademark registration number 008346462 for the SODEXO trademark registered on February 1, 2010.

International trademark registration number 689106 for the SODEXHO (device) trademark, registered on January 28, 1998.

The disputed domain name was registered on September 27, 2022.

The disputed domain name does not resolve to an active website.

The Complainant’s trademark registrations predate the registration of the disputed domain name.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the SODEXO trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

The Complainant *inter alia* specifically claims that the Respondent is using the disputed domain name at issue to send fraudulent emails, with an email address ending in “@sodaxo.com”, in order to mislead third parties and obtain funds fraudulently.

B. Respondent

The Respondent did not formally reply to the Complainant’s contentions.

6. Discussion and Findings

In order for the Complainant to obtain the transfer of the disputed domain name, paragraphs 4(a)(i)-(iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established rights in the SODEXO and SODEXHO trademarks.

The only differences between the SODEXO trademark and the disputed domain name is the substitution of the middle vowel “e” for the vowel “a” as well as the country code Top-Level Domain (“ccTLD”) “.co”.

The ccTLD suffix is generally disregarded under the test for confusing similarity for the purposes of the Policy, and the substitution of the letter “e” with the letter “a” in the Complainant’s trademark does not prevent a finding of confusing similarity under the first element of the UDRP.

In this sense, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.9: “A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.”

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant’s trademark. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. The Respondent has not formally replied to the Complainant’s contentions, claiming any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel, on the basis of the evidence presented, finds that the disputed domain name was registered and has been used in bad faith.

The Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the SODEXO mark when it registered the disputed domain name.

In fact, the Complainant's SODEXO trademark is a fanciful name with no meaning aside from referring to the Complainant's goods and services. It has been registered and used for many years prior to the registration of the disputed domain name and is a renowned trademark worldwide, especially in the food sector. Hence, the registration of the disputed domain name does not seem to be a coincidence, and thus indicates that the Respondent knew of the Complainant's mark and intentionally intended to create an association with the Complainant and its business at the time of the registration of the disputed domain name. The typosquatting nature of the disputed domain name further supports this inference.

Inference of bad faith can also be found in the failure to respond to the Complainant's contentions, and the Respondent's lack of any rights or legitimate interests in the disputed domain name.

Another factor supporting the conclusion of bad faith registration and use of the disputed domain name is the fact that the Respondent deliberately chose to conceal its identity. In fact, it appears that the Respondent has misused the identity of a third party to register the disputed domain name.

Lastly, in these circumstances, the passive holding of the disputed domain name would not prevent a finding of bad faith. See section 3.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain names in bad faith.

Therefore, the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <sodaxo.co>, be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: December 15, 2022